

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor,

Plaintiff,

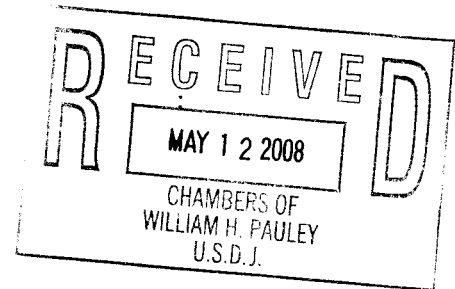
v.

BROADWAY 76 LTD. D/B/A NIKO'S MEDITERRANEAN
GRILL & BISTRO A Corporation; and
KIMAN COFFEE SHOP, INC., a Corporation, and
DEMITRIOS N. IMIRZIADES, Individually, and as Officer;

Defendants.

: Civil Action

: File No. 08-CV-04062-WHP



CONSENT JUDGMENT

Plaintiff, the Secretary, has filed her Complaint and defendants BROADWAY 76 LTD. D/B/A NIKO'S MEDITERRANEAN GRILL & BISTRO, KIMAN COFFEE SHOP, INC. and DEMITRIOS N. IMIRZIADES appeared by Counsel, and an agreement was reached by all the parties to resolve all the issues raised in this action. Defendants, without admitting or denying the allegations of the Complaint, agree and consent to the entry of this Judgment, and it is therefore upon motion of the attorneys for the Secretary and for good cause shown:

I. ORDERED that defendants, their officers, employees, agents, and all persons acting in the defendants' behalf and interest be permanently enjoined and restrained from violating the provisions of sections 7, 15(a)(2) and 15(a)(3) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. Section 201 et seq.), (the Act), in any manner, specifically including:

(1) Defendants shall pay employees at time and one-half their regular hourly rates for all hours worked over 40 per week, and shall not, contrary to Section 7 of the Act, employ any of their employees in any workweek for workweeks longer than the hours now, or which in the

future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the employee receives compensation in compliance with the Act.

(2) Defendants shall not discharge or take any retaliatory action against any employee because the employee engages in any of the following activities:

a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;

b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the Act, or a rule or regulation promulgated pursuant to the Act, by the employer or another employer with whom there is a business relationship;

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act; and it is further

II. ORDERED that the defendants are enjoined and restrained from withholding the payment of overtime compensation due their employees listed in exhibit A in the total gross amount of \$10,000; and it is further

III. ORDERED that the defendants are enjoined from withholding the payment of back wage compensation due their employees listed in Exhibit A. Payment of that sum, less legal deductions, shall be made on or before April 25, 2008. Defendants shall pay by delivering a single certified check or bank check to:

U.S. Department of Labor

ESA/Wage & Hour Division
Northeast Region
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317; and it is further

IV. ORDERED that a copy of the certified check and cover letter shall be simultaneously sent to District Director Philip Jacobson, U.S. Department of Labor, Wage Hour District Office, 26 Federal Plaza, Room 3700, New York New York 10278 and Douglas Weiner, Esq., U.S. Department of Labor, Office of the Regional Solicitor, 201 Varick Street, Room 983, New York, New York 10014. The Secretary shall distribute the defendants' payments to the employees and former employees, or to their estates, in accordance with the findings of the investigation. Defendants shall provide to plaintiff the social security number and last known address of each employee or former employee listed in Exhibits A of this Judgment.

Any sums not distributed to the employees or former employees named herein, or to their personal representatives because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Treasurer of the United States; and it is further

V. ORDERED that neither defendants nor anyone on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Judgment; and it is further

VI. ORDERED that defendants shall place posters provided by the Wage and Hour Division with information about the FLSA where employees may view them; and it is further

VII. ORDERED that neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any

employees or former employees of defendants not listed in Exhibit A to file any action against defendants under Section 16(b) of the Act, or likewise for any current or former employee listed in Exhibits A to file any action against defendants under Section 16(b) of the Act for any violations alleged to have occurred after October 17, 2005; and it is further


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PAGE 06

XV. ORDERED that each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

SO ORDERED:

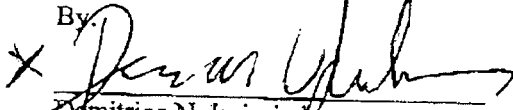

HONORABLE WILLIAM H. PAULEY III
UNITED STATES DISTRICT JUDGE

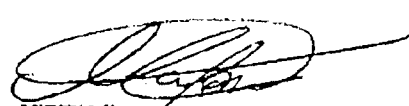
DATED: *May 21, 2008*
New York, New York

Defendants have appeared by counsel, and hereby consent to the entry of this Judgment.

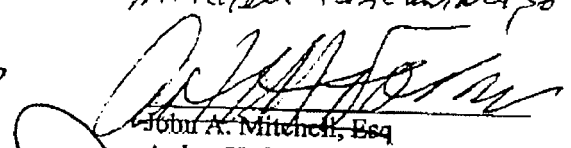
BROADWAY 76 LTD. D/B/A NIKO'S MEDITERRANEAN GRILL & BISTRO, and
KIMAN COFFEE SHOP, INC.

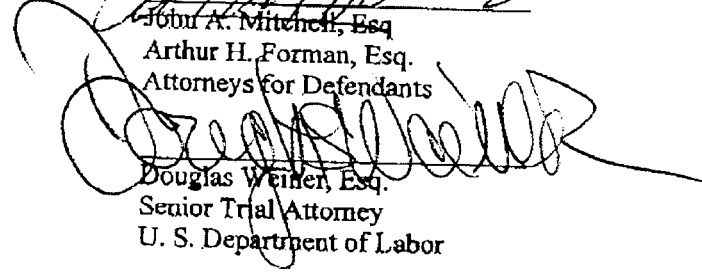
By

* 
Demitrios N. Imirziades
Individually and as corporate officer
of both corporations


MIREILLE LAPONTANT
Notary Public, State of New York
No. 01058100385
Qualified in Kings County
Commission Expires: October 20, 2011

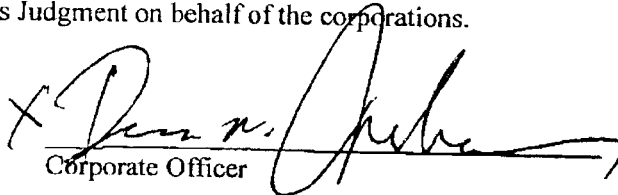
Mitchell & Truntal


John A. Mitchell, Esq.
Arthur H. Forman, Esq.
Attorneys for Defendants


Douglas Weiner, Esq.
Senior Trial Attorney
U. S. Department of Labor

RESOLVED, that the corporations, BROADWAY 76 LTD. D/B/A NIKO'S MEDITERRANEAN GRILL & BISTRO and KIMAN COFFEE SHOP, INC. hereby ratify and confirm the offer made to ELAINE L. CHAO, Secretary of Labor, with respect to the alleged violations of the Fair Labor Standards Act of 1938, as amended, and that the corporations consent to the entry of this Judgment against them to be entered in an action which has been filed by the Secretary of Labor against the corporations. The officers of the corporations are authorized to do and perform all acts and things necessary to effectuate the provisions of this Judgment.

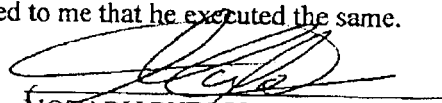
The undersigned, James N. Chao, officer of the aforesaid corporations hereby certifies that the officer has duly been authorized to execute this agreement and to the corporations' consent to the entry of this Judgment on behalf of the corporations.


Corporate Officer

STATE OF NEW YORK)
 :SS:

COUNTY OF NEW YORK)

On the 10th day of April 2008 before me personally appeared DEMITRIOS N. IMIRZIADES to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.


NOTARY PUBLIC

MIREILLE LAFONTANT
Notary Public, State of New York
No. 01LA6100385
Qualified in Kings County
Commission Expires: October 20, 20 11

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Exhibit A

04/14/2008 17:15 FAX

US DOL

002

Summary of Unpaid Wages

U.S. Department of Labor

Employment Standards Administration

Wage and Hour Division



(Office Address) New York City District Office
26 Federal Plaza
Suite 3700
New York, NY 10278-0190
212-264-8185

Investigator:

Pierre Kouass

Date:

04/14/2008

Employer Fed Tax ID Number

13-3746220

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. Gross Amounts Due
1. =, AHMAD		10/23/2004 to 10/21/2006		\$100.54
2. =, ALFONSO		10/23/2004 to 10/21/2006		\$317.12
3. =, AUGUSTIN		10/23/2004 to 10/21/2006		\$359.07
4. =, BERNADO		10/23/2004 to 10/21/2006		\$344.71
5. =, CAMILO		10/23/2004 to 10/21/2006		\$365.79
6. =, CHARLIE		10/23/2004 to 10/21/2006		\$373.44
7. =, COBY		10/23/2004 to 10/21/2006		\$215.44
8. =, FELIPE		10/23/2004 to 10/21/2006		\$315.99
9. =, FIDEL		10/23/2004 to 10/21/2006		\$100.54
10. =, FRANCISCO		10/23/2004 to 10/21/2006		\$186.72
11. =, GABRIEL		10/23/2004 to 10/21/2006		\$100.54
12. =, IQBAL		10/23/2004 to 10/21/2006		\$244.17
13. =, JESUS		10/23/2004 to 10/21/2006		\$129.26
14. =, JOAQUIN		10/23/2004 to 10/21/2006		\$215.44
15. =, LULU		10/23/2004 to 10/21/2006		\$287.26
16. =, MARKO		10/23/2004 to 10/21/2006		\$244.17

I agree to pay the listed employees the
back wages shown due and to mail
proof of payment to the Wage and Hour
District Office shown above by

Signed: _____

Employer Name and Address:

NIKOS MEDITERRANEAN GRILL & BISTRO
BROADWAY 76LTDLL
2161 Broadway

New York, NY 10024

TOTAL \$10,000.00

* Column 4-Code

FLSA 1
PCA 2
SGA 3
DBRA 4
CWHESA 5
CCPA 6
FMLA 7

Date: 04/14/2008 3:10:09 PM

Case ID: 1444906

Form WH-56

Page 1

04/14/2008 17:15 FAX

US DOL

0003

Summary of Unpaid Wages

U.S. Department of Labor

Employment Standards Administration

Wage and Hour Division



(Office Address) New York City District Office
28 Federal Plaza
Suite 3700
New York, NY 10278-0190
212-264-8185

Investigator:

Pierre Kouassi

Date:

04/14/2008

Employer Fed Tax ID Number

13-3746220

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. Gross Amounts Due
17. =, NAVA		10/23/2004 to 10/21/2006		\$100.54
18. =, NINA		10/23/2004 to 10/21/2006		\$100.54
19. =, RUFINO		10/23/2004 to 10/21/2006		\$100.54
20. =, VERA		10/23/2004 to 10/21/2006		\$402.16
21. =, ZAMORA		10/23/2004 to 10/21/2006		\$254.26
22. ==, FALED		10/23/2004 to 10/21/2006		\$244.18
23. ==, HASSAN		10/23/2004 to 10/21/2006		\$244.17
24. ==, RIGO		10/23/2004 to 10/21/2006		\$287.26
25. ARCOS, LUIS		10/23/2004 to 10/21/2006		\$373.44
26. ARZALUZ, CARMELO O		10/23/2004 to 10/21/2006		\$362.20
27. AYALA, ALBERTO		10/23/2004 to 12/31/2005		\$128.90
28. BERMEO, CARLOS H		10/23/2004 to 10/21/2006		\$466.73
29. GONI, MOHAMMED A		10/23/2004 to 10/21/2006		\$100.54
30. JAVIER MONTEL, RICARDO		10/23/2004 to 10/21/2006		\$71.81
31. JUAN, ALMODOVAR		10/23/2004 to 07/02/2005		\$106.75
32. LIVIZACA, VICENTE CARLOS		10/23/2004 to 10/21/2006		\$353.58
			TOTAL	\$10,000.00

I agree to pay the listed employees the
back wages shown due and to mail
proof of payment to the Wage and Hour
District Office shown above by

Signed: _____

Employer Name and Address:

NIKOS' MEDITERRANEAN GRILL & BISTRO
BROADWAY 76LTDLL
2161 Broadway

New York, NY 10024

* Column 4-Code

FLSA 1
PCA 2
SCA 3
DORA 4
CWMSSA 5
CCPA 6
FMLA 7

Date: 04/14/2008 3:10:11 PM

Case ID: 1444906

Form WH-56

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US DOL

004

Summary of Unpaid Wages

U.S. Department of Labor

Employment Standards Administration

Wage and Hour Division



(Office Address) New York City District Office
26 Federal Plaza
Suite 3700
New York, NY 10278 0190
212-264-8185

Investigator:

Pierre Kouassi

Date:

04/14/2008

Employer Fed Tax ID Number

13-3746220

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. Gross Amounts Due
33. MARTINEZ, GILBERTO		10/23/2004 to 10/21/2006		\$100.54
34. MENDEZ, SALVADOR		10/23/2004 to 10/21/2006		\$71.81
35. MOHAMMED, HOSAIN Z		10/23/2004 to 10/21/2006		\$100.54
36. MOHAMMED, KABIR H		10/23/2004 to 10/21/2006		\$201.09
37. OZGULGEC, TANSU		10/23/2004 to 10/21/2006		\$172.35
38. PONS, PABLO H		10/30/2004 to 10/21/2006		\$315.98
39. RAHMAN, SAIDUR M		10/23/2004 to 10/21/2006		\$215.44
40. RAOUL, ALBERTO		10/23/2004 to 10/21/2006		\$373.44
41. RIGOBERTO, FUNES		10/23/2004 to 10/21/2006		\$100.54
42. SINGH, RANJIT		10/23/2004 to 10/21/2006		\$47.46
43. SORGE, JASON T		10/23/2004 to 10/21/2006		\$30.35
44. VASQUEZ, ROGELIO		10/23/2004 to 10/21/2006		\$186.72
45. VIDA, LUIZ		10/23/2004 to 05/06/2006		\$485.94

I agree to pay the listed employees the
back wages shown due and to mail
proof of payment to the Wage and Hour
District Office shown above by

Signed: _____

Employer Name and Address:

NIKOS' MEDITERRANEAN GRILL & BISTRO
BROADWAY 76LTDLL
2161 Broadway

New York, NY 10024

TOTAL \$10,000.00

* Column 4-Code

FLSA 1
PCA 2
SCA 3
DBRA 4
CWHSSA 5
CCFA 6
FMLA 7

Date: 04/14/2008 3:10:12 PM

Case ID: 1444906

Form WH-56

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**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

Date:

In Re:

-v-

Case #:

()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

J. Michael McMahon, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-V-	X X	NOTICE OF APPEAL civ. ()
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Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL**

civ. ()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
(party)
desires to appeal the judgment in this action entered on _____ but failed to file a
(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 2

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
-V-
-----X

**NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME**

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
_____ respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 3

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have
served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006